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12 DOLLAR TREE STORES, INC.

13
14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 MIGUEL A. CRUZ, and JOHN D. HANSEN,
17 individually and on behalf of all others
similarly situated,

18 Plaintiffs,

19 v.

20 DOLLAR TREE STORES, INC.,
21 Defendant.

CASE NO. C 07 2050 SC

22 ROBERT RUNNINGS individually, and on
behalf of all others similarly situated,

23 Plaintiff,

24 v.

25 DOLLAR TREE STORES, INC.,
26 Defendant.

CASE NO. C 07 04012 SC

**REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF DEFENDANT
DOLLAR TREE STORES, INC.'S
MOTION FOR SUMMARY
JUDGMENT [RUNNINGS]**

JUDGE: Hon. Samuel Conti
COMPLAINTS FILED: April 11, 2007
July 6, 2007
TRIAL DATES: No dates set.

1 Defendant Dollar Tree Stores, Inc. hereby requests that the Court take
2 judicial notice of the following document pursuant to Federal Rule of Evidence 201:

3 **Exhibit A:** *The Order and Judgment Granting Final Approval of*
4 *Settlement* was filed on July 14, 2005, in the Superior Court for Orange County (Case
5 No. 01CC00329). *See Hott v. City of San Jose*, 92 F.Supp.2d 996, 998 (N.D. Cal. 2000)
6 ("Pursuant to Federal Rule of Evidence 201, the Court may take judicial notice of papers
7 filed in other courts.").

8
9 DATED: January 19, 2008

Respectfully submitted,

KAUFF MCCLAIN & MCGUIRE LLP

11 By: /S/
12 ALEX HERNAEZ

13 Attorneys for Defendant
14 DOLLAR TREE STORES, INC.

Exhibit A

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUL 14 2005

ELECTRONICALLY
RECEIVED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

Jun 29 2005

ALAN SLATER, Clerk of the Court

BY J. FRAUSTO

ALAN SLATER, Clerk of the Court
SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

MICHAEL WILLIAMS, et al, individually and
on behalf of all others similarly situated,

Case No. 01CC00329

Plaintiff,

vs.

CONSOLIDATED AND ASSIGNED FOR
ALL PURPOSES TO THE HONORABLE
RONALD L. BAUER

DOLLAR TREE STORES, INC. a
Virginia corporation; DOLLAR
TREE STORES, INC., dba DOLLAR
TREE, DOLLAR BILLS, ONLY \$1.00,
ONLY \$ONE, 98 CENT CLEARANCE
CENTER and DOLLAR EXPRESS
and DOES 1 through 50, inclusive

~~(Proposed)~~ ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF
SETTLEMENT

Defendants.

Date: June 27, 2005

Related and Consolidated actions:

Time: 10:30 a.m.

Dept.: CX-103

1. Maples v. Dollar Tree, OCSC 01CC12593
2. Marshall v. Dollar Tree, OCSC 01CC00390
3. Young v. Dollar Tree, OCSC 02CC00045

This matter having come before the Court for hearing, pursuant to the Order of the Court, ("Preliminary Approval Order"), on the application of Plaintiffs for approval of the settlement set forth in the Class Action Stipulation Regarding Settlement, attached as Exhibit A to the Joint Motion for Preliminary Approval ("Stipulation"), due and adequate notice having been given to the Class as required

[Proposed] ORDER AND JUDGMENT GRANTING
FINAL APPROVAL OF SETTLEMENT

JSTIP

1 in said Preliminary Approval Order, the Court having considered all papers filed and proceedings had
2 herein and otherwise being fully informed in the matter, and good cause appearing therefore,

3
4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

5 1. This Order and Judgment Granting Final Approval of Settlement ("Final Judgment")
6 incorporates by reference the definitions set forth in the Stipulation, and all terms used herein shall have
7 the same meanings as set forth in the Stipulation.

8 2. This Court has jurisdiction over the subject matter of this litigation and over all parties to
9 this litigation, including all members of the Class.

10 3. The Court finds that the mailing of the Notice of Settlement to the 980 putative class
11 members was properly administered by Rust Consulting Inc., pursuant to Court order and that in
12 connection with the mailing of the notice the response was as follows: 672 Class Members filed timely
13 and valid claims; 6 Class Members filed untimely claims; 8 individuals filed a timely and valid opt-
14 out; and no objections were filed.

15 4. This Court hereby approves the settlement set forth in the Stipulation and finds that said
16 settlement is, in all respects, fair, reasonable, adequate and in the best interests of the Class.
17 Consummation of the settlement in accordance with the terms and provisions of the Stipulation is
18 approved. The settlement shall be binding upon all members of the Class, who did not timely elect to
19 be excluded from the Class when an opportunity was provided by the Court. In this case, the
20 settlement shall not be binding on the eight individuals who filed a timely and valid opt-out.

21 5. Defendant, Dollar Tree Stores Inc., shall pay the total, gross sum of \$7,644,240.00 to or
22 for the benefit of the Class, or to the attorneys for the Class (the "Settlement Fund"), in the manner
23 more fully set forth below. In addition, Dollar Tree shall also pay an additional amount to pay costs
24 of claims administration in the amount of \$30,000 as set forth in Section VI.A.4 of the Stipulation.
25 Dollar Tree shall have no further liability for costs, expenses, interest, attorneys' fees, or for any other
26 charge, expense, or liability, except as provided in the Stipulation. The remaining \$9,926.24 to cover
27 the balance of the services provided by the claims administrator shall be paid out of the Settlement
28 Fund.

6. (a) Entry of this Final Judgment shall further constitute a release by Each Class and each member of the Dollar Tree Class as set out in the Stipulation, on behalf of himself/herself, and each of his/her descendants, dependents, heirs, executors, administrators, assigns, successors, agents and attorneys, does hereby and is deemed to forever release, discharge, and promise not to sue Dollar Tree Stores, Inc., as well as its past, present and future corporate parents, subsidiaries, divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, attorneys, insurers, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors and privies, and each of them (collectively, the "Releasees"), with respect to and from

any and all claims, actions, causes of action, suits, agreements, obligations, liens, demands, damages, debts, obligations, guarantees, costs, expenses, attorney's fees, damages, controversies, liabilities, action or causes of action contingent or accrued of any kind whatsoever, in law or in equity, whether contractual or tort, common law, statutory or administrative, federal, state or otherwise, and whether known or unknown, suspected or unsuspected, which the Class Member has, had, or hereafter may claim to have, against Releasees, or any of them, which are based on, or in any way related to, the classification of Class Members as exempt employees under any federal, state or local law, the nonpayment of or failure to record overtime under any federal, state or local law, the failure to pay penalties under the California Labor Code (including without limitation penalties under Labor Code sections 203, 226.7 and 558 and under Wage Order 7 of the Industrial Welfare Commission), the failure to grant, pay for or record meal and rest periods, and any other claims alleged or which could have been alleged relating to overtime compensation and/or meal periods and rest breaks, including without limitation to, all claims relating to overtime compensation and/or meal periods and rest breaks arising under the Fair Labor Standards Act, the California Labor Code or Business & Professions Code (including Section 17200), or the Wage Orders of the California Industrial Welfare Commission; claims for restitution and other equitable relief, liquidated damages, punitive damages, waiting time penalties, penalties of any nature whatsoever, retirement, health benefits, stock options, stock deferred compensation benefits or any other benefit claimed on account of unpaid overtime, attorneys' fees and costs, whether known or unknown, during the Class Period, arising from employment by Dollar Tree and 98 Cent or termination from employment by Dollar Tree or 98 Cent within California. All members of the Settlement Class also hereby release any claim under Labor Code section 2699, and agree that they will not participate in any proceeding seeking penalties under Section 2699.

(b) In addition, all Participating Class Members waive the provisions of California Civil Code § 1542 as to the above Released Claims. Civil Code § 1542 states as follows:

1 A general release does not extend to claims which the creditor does not
2 know or suspect to exist in his favor at the time of executing the
3 release, which if known by him must have materially affected his
4 settlements with the debtor.

5 (c) Furthermore, upon occurrence of the Effective Settlement Date, the Court
6 finds that each and every Participating Class Member, including the Class Representatives, and all
7 successors in interest shall be permanently enjoined and forever barred from prosecuting any and all
8 Released Claims against the Releasees or any related entity or individual. Thus, subject to and in
9 accordance with this Stipulation re Settlement, even if the Plaintiffs and/or the Participating Class
10 Members, or any of them, may hereafter discover facts in addition to or different from those which
11 they now know or believe to be true with respect to the subject matter of Released Claims, the
12 Plaintiffs and each Participating Class Member, upon the Effective Settlement Date, shall be deemed
13 to have and by operation of the Judgment shall have fully, finally, and forever settled and released any
14 and all claims raised in the consolidated Dollar Tree Overtime Action, or any of the other Released
15 Claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, whether
16 or not concealed or hidden, which now exist.

17 7. For purposes of these proceedings, the "Effective Date" is deemed by the Court to be
18 the date when this order and judgment is entered and filed by the Court.

19 8. This litigation (and all claims asserted at any time herein) is hereby fully and finally
20 dismissed with prejudice, with each party to bear his/her/its own costs and attorneys' fees (except as
21 otherwise expressly provided herein). Without limiting the generality and legal effect of the foregoing,
22 this dismissal with prejudice extends to all claims ever asserted or could have been asserted in this
23 litigation individually and/or on behalf of any group and/or purported or certified class and extends to all
24 of the Settled Claims described in paragraph 7 above and the Joint Stipulation of Class Settlement.

25 9. All members of the Class are barred and permanently enjoined from instituting,
26 asserting or prosecuting, directly, representatively, derivatively or in any other capacity, any Settled
27 Claims against Dollar Tree.

28 10. The notice given to the Class of the settlement as described in the Stipulation and
Preliminary Approval Order constituted the best notice practicable under the circumstances. The notice
program provided due and adequate notice of these proceedings and of the matters set forth in the notice,

1 including the settlement set forth in the Stipulation, to all persons and entities entitled to such notice, and
 2 said notice fully satisfied the requirements of due process and applicable law.

3 11. There is no just reason for delay in entry of this Final Judgment, and therefore the Clerk of
 4 the Court is hereby directed to enter this Final Judgment as the final Judgment of this Court in this case.

5 12. For their efforts in prosecuting these actions the following individuals are awarded an
 6 enhancement:

7 Donna Anderson	\$3,710.00
8 Kim Lewis-Doria	\$3,710.00
9 David Easter	\$3,710.00
10 Alma Garcia	\$3,710.00
11 Jason Maples	\$3,710.00
12 Penny Young	\$3,710.00

13
 14 13. All funds approved and/or awarded by the Court and set forth in this Order shall be paid
 15 out according to the terms set forth in the Joint Stipulation Of Class Settlement And Release between
 16 Plaintiffs and Defendant.

17 14. With respect to those 6 Class Members who filed untimely claims, the Court hereby
 18 finds that those claims shall be approved. No further late claims will be allowed without further order
 19 of the Court.

20 15. This Final Judgment is entered pursuant to Stipulation of the parties and is intended to
 21 effectuate the settlement more fully described in the Stipulation.

22 16. The Court sets a further status conference re final accounting for January 9, 2006 in CX
 23 103.

24
 25 DATED: July 14, 2005

Ronald L. Bauer
 Honorable Ronald L. Bauer
 Judge of the Superior Court